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# Sexual Violence in African Conflicts

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## Summary

Civilians in Africa's conflict zones—particularly women and children, but also men—are often vulnerable to sexual violence, including rape, assault, mutilation, and sexual slavery. This violence is carried out by a range of actors, including government security forces, rebel groups, militias, and criminal organizations. Some abuses appear to be opportunistic, the product of a larger breakdown in the rule of law and social order that may occur amid conflict. In other cases, attacks appear to be carried out systematically by combatants as a strategic tool to intimidate and humiliate civilian populations.

While such abuses are by no means limited to Africa, weak institutions in many African states can mean that victims have little redress. In addition to health and psychological consequences, survivors are also often shunned by their families and communities. Within Africa, the issue of sexual violence in conflict has been particularly prevalent in eastern Democratic Republic of Congo (DRC), where security forces, rebel organizations, militias, and other armed groups have inflicted sexual violence upon the civilian population on a massive scale. This report provides a detailed case study of DRC and an overview of the U.S. strategy to counter sexual violence there.

The issue of sexual violence in conflict is complex, with implications for international programs and policies related to health, humanitarian relief, global women's issues, the justice sector, the security sector, and multilateral activities. Multiple U.S. government agencies and implementing partners contribute to efforts to prevent and respond to sexual violence in African conflicts, including the Department of State, the U.S. Agency for International Development (USAID), the Department of Justice, and the Department of Defense, among others. Secretary of State Hillary Clinton and Melanne Verwee, the Obama Administration's Ambassador-at-Large for Global Women's Issues, have taken the lead on the Administration's initiative to address the issue and have focused attention through speeches, official travel, public remarks, writings, and actions at the United Nations. Still, concerns remain among some analysts that programmatic responses to the issue have lacked coordination between donors and among implementers.

Potential issues for Congress include the authorization and appropriation of targeted assistance programs and oversight of Administration policies and participation in multilateral activities. The 111<sup>th</sup> Congress repeatedly expressed interest in bringing attention to the issue of sexual violence in African conflicts and support for programs to address it through legislation, hearings, and other congressional actions. Related legislation introduced during the 111<sup>th</sup> Congress included H.Res. 1676 (Carnahan); H.R. 5121 (Clarke); S. 2982 (Kerry); H.R. 4594 (Delahunt); H.Res. 931 (Carson); and H.J.Res. 10 (Jackson-Lee). The "conflict minerals" amendment to the Dodd-Frank Wall Street Reform and Consumer Protection Act (H.R. 4173, passed into law on July 21, 2010, as P.L. 111-203), which is expected to lead to new regulations for U.S. companies that rely on certain minerals mined in central Africa, references reported links between illicit mining activities and high levels of sexual and gender-based violence in DRC. On January 7, 2011, H.J.Res. 12 (Jackson Lee), on international gender-based violence, was introduced in the House. For further background, see CRS Report RL34438, *International Violence Against Women: U.S. Response and Policy Issues*, coordinated by Luisa Blanchfield.

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## Overview

Civilians in Africa's conflict zones—particularly women and children, but also men—are often vulnerable to sexual violence, including rape, sexual assault, mutilation, forced prostitution, sexual slavery, and other abuses.<sup>1</sup> Some incidences appear to be opportunistic, the product of a larger breakdown in the rule of law and social order that may occur amid conflict. In other cases, sexual violence has also been employed by combatant groups as a strategic tool. Perpetrators may include members of the security forces, rebel movements, militias, or other non-state armed groups. In some cases, individuals at the highest levels of the state have been accused of ordering, condoning, or tolerating such violence. There have also been instances where humanitarian and peacekeeping workers have been accused of sexual abuse and exploitation.<sup>2</sup>

The issue of sexual violence in conflict is far from confined to Sub-Saharan Africa (henceforth, “Africa”), and it has not been a salient feature of all African conflicts.<sup>3</sup> Sexual violence by combatant groups in the former Yugoslavia in the 1990s, for example, drew widespread international attention. Moreover, conflict settings are not necessarily those in which sexual abuse is most prevalent.<sup>4</sup> Sexual atrocities have nevertheless been a feature of many African conflicts over the past two decades, including in active conflicts in Central African Republic (CAR), Chad, Democratic Republic of Congo (DRC), Ethiopia, Nigeria, Somalia, and Sudan; and in recent conflicts in Burundi, Congo-Brazzaville (Republic of Congo), Côte d'Ivoire, Liberia, Rwanda, Sierra Leone, and northern Uganda. Such acts have been particularly prevalent in eastern DRC, where security forces, rebel organizations, militias, and other armed groups have inflicted sexual violence upon the civilian population on a massive scale.

This report focuses on conflicts in Africa in which sexual violence is reported to be widespread or systematic.<sup>5</sup> It describes the context in which such violence takes place, selected cases where it is currently occurring, and U.S. policy responses. The report concludes with a discussion of potential policy considerations, including the design and effectiveness of U.S. programs; coordination between agencies and between international donors; and the question of whether

<sup>1</sup> For the purposes of this report, “sexual violence” refers to the perpetration of an act or acts of a sexual nature via force, the threat of force, or coercion, or by taking advantage of a person's incapacity to give genuine consent. Abuses do not exclusively affect women; men and boys are frequently targets. The broader term “gender-based violence” (GBV) describes violence of any nature perpetrated against an individual, regardless of sex, because of his or her gender. GBV is also broader than “violence against women” (VAW) because it can include violence perpetrated against men and boys in addition to women and girls. For background, see CRS Report RL34438, *International Violence Against Women: U.S. Response and Policy Issues*, coordinated by Luisa Blanchfield; and CRS Report RL34518, *United Nations System Efforts to Address Violence Against Women*, by Luisa Blanchfield.

<sup>2</sup> These have included conflict and post-conflict settings in West and Central Africa. The humanitarian community and the Office of the United Nations Secretary-General have taken a number of steps to investigate and prevent such abuses, as have individual U.N. peacekeeping missions. See U.N. Office for the Coordination of Humanitarian Affairs (OCHA), “Protection from Sexual Exploitation and Abuse,” at <http://ochaonline.un.org/HumanitarianIssues/ProtectionfromSexualExploitationandAbuse/tabid/1204/language/en-US/Default.aspx>. For further background, see CRS Report RL33700, *United Nations Peacekeeping: Issues for Congress*, by Marjorie Ann Browne.

<sup>3</sup> See Elisabeth Jean Wood, “Variation in Sexual Violence During War,” *Politics & Society* 34, 3 (September 2006).

<sup>4</sup> Sexual abuse may occur, for example, in the workplace, at school, among intimate partners, and within families, among other settings. See, e.g., World Health Organization (WHO), Summary Report, *WHO Multi-country Study on Women's Health and Domestic Violence against Women: Initial results on prevalence, health outcomes and women's responses*, 2005.

<sup>5</sup> The terms “widespread,” referring to the large-scale nature of the attack and the number of victims, and “systematic,” referring to the organized nature of the acts of violence and the improbability of their random occurrence, have been used by the United Nations and international tribunals in assessing whether sexual violence in conflict violates international law (United Nations, *Report of the Secretary-General Pursuant to Security Council Resolution 1820* (2008), U.N. document S/2009/362, July 15, 2009).

policy responses to sexual violence can be separated from the broader context in which such violence occurs. The report includes a detailed case study of DRC, which has drawn particular attention from the Obama Administration and the 111<sup>th</sup> Congress.

### **Measuring the Prevalence of Sexual Violence**

Accurate information on the prevalence of sexual violence is difficult to obtain in any circumstances, as victims often decline to report their experiences due to personal trauma, fear of reprisals, and societal stigma. Moreover, in many African countries, law enforcement institutions, state investigatory entities, and provisions for the protection of victims are near-absent, which inhibits accurate reporting. These difficulties are compounded in conflict settings by general chaos and population displacements, safety fears, and a breakdown or lack of systems to collect and report information. Data from medical surveys and judicial investigations, information obtained through U.N. agencies and programs, humanitarian and human rights organizations, research studies, and press reports may nevertheless indicate where and in what context high levels of sexual violence are occurring.

## **Congressional Activities**

In recent years, Congress has demonstrated an interest in drawing attention to sexual violence in conflict zones, including through legislation, hearings, and other activities. Congressional interest has encompassed the humanitarian, health-related, socio-economic, and security implications of such violence, and ways in which U.S. and multilateral policies can respond to or prevent it. In May 2009, the Senate Foreign Relations Committee held a hearing on “Confronting Rape and Other Forms of Violence Against Women in Conflict Zones—Spotlight: DRC and Sudan.” The House Foreign Affairs Committee and the Senate Foreign Relations Committee also held several hearings in 2009 on the broader topic of international violence against women.

Two pieces of legislation that pertain to sexual violence in African conflict settings were passed during the 111<sup>th</sup> Congress. These were the Lord’s Resistance Army Disarmament and Northern Uganda Recovery Act of 2009 (P.L. 111-172) and the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203), which includes an amendment to regulate “conflict minerals” that references reported links between illicit mining activities and high levels of sexual and gender-based violence in DRC. In addition, several pieces of draft legislation were introduced during the 111<sup>th</sup> Congress on the overlapping issues of international violence against women and sexual violence in conflict zones. These include H.Res. 1676 (Carnahan); H.R. 5121 (Clarke); S. 2982 (Kerry); H.R. 4594 (Delahunt); H.Res. 931 (Carson); and H.J.Res. 10 (Jackson-Lee). Several pieces of Africa-focused draft legislation also reference sexual violence in connection with specific countries, including S.Res. 345 (Boxer), on Guinea; S. 3757 (Feingold), on Ethiopia; and H.Res. 1588 (Capuano), on Sudan. At least one piece of related draft legislation has been introduced during the 112<sup>th</sup> Congress: on January 7, 2011, H.J.Res. 12 (Jackson Lee), on international gender-based violence, was introduced in the House.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203, July 21, 2010) includes an provision on “conflict minerals” that references reported links between illicit mining activities and high levels of sexual and gender-based violence in the Democratic Republic of Congo (DRC). The provision (Section 1502 of the act) requires U.S.-listed companies whose products are made from certain minerals associated with conflict areas in central Africa to annually disclose to the Securities and Exchange Commission whether the minerals used in their products were mined in Congo or neighboring countries. Among other provisions, it also requires the Secretary of State and the Administrator of the U.S. Agency for International Development (USAID) to develop and submit to Congress a strategy “to address the linkages between human rights abuses, armed groups, mining of conflict minerals, and commercial products,” and requires the U.S. Comptroller General to submit to Congress a report that includes “an assessment of the

rate of sexual- and gender-based violence in war-torn areas of the Democratic Republic of the Congo and adjoining countries.”

In annual and supplemental appropriations legislation, the 111<sup>th</sup> Congress directed specific funds to be used in addressing the issue of sexual violence in African conflict zones, particularly with regard to Congo:

- The Supplemental Appropriations Act, 2010 (P.L. 111-212, Section 1012) allocated \$15 million in FY2010 Economic Support Fund (ESF) funds “for necessary expenses for emergency security and humanitarian assistance for civilians, particularly women and girls, in the eastern region of the Democratic Republic of the Congo.”
- The conference report accompanying the Consolidated Appropriations Act, 2010 (P.L. 111-117) directed “not less than” \$10 million to address gender-based violence, including for fistula repair and other assistance for victims, and training and support for health and law enforcement personnel.<sup>6</sup>
- P.L. 111-117 also stated that funds for bilateral Development Assistance, Economic Support Fund assistance, and International Narcotics Control and Law Enforcement assistance “shall be made available for programs to address sexual and gender-based violence” overseas, and that bilateral economic assistance and international security assistance programs that provide funding for foreign police, judicial, and military officials “shall address, where appropriate, gender-based violence.”<sup>7</sup>
- The Supplemental Appropriations Act, 2009 (P.L. 111-32) provided \$10 million in Economic Support Funds (ESF) for “programs and activities to assist victims of gender-based violence” in DRC.<sup>8</sup> In an explanatory statement attached to the act, appropriators directed the State Department and USAID to report to Congress on “programs addressing sexual and gender-based violence and how these issues are being integrated into foreign police, judicial and military training programs.”<sup>9</sup>

The conference report accompanying P.L. 111-117 also directed the Department of State, in consultation with USAID, “to provide a report to the Committees on Appropriations outlining a comprehensive strategy and budget to address gender-based violence in the DRC” that “should describe how United States Government efforts fit into multi-donor and host government strategies to address this issue.” Appropriators directed the Department to consult with the Committees on Appropriations prior to developing the strategy.<sup>10</sup> A strategy was briefed to Congress by the Administration in early January 2011.

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<sup>6</sup> H.Rept. 111-366.

<sup>7</sup> P.L. 111-117, Division H, Title VII, Section 7063, (a) and (b). The inclusion of content on gender-based violence in foreign police, judicial, and military training was required in the Foreign Operations, Export-Financing, and Related Programs Appropriations Act, 2006 (P.L. 109-102, Section 573), November 14, 2005; similar language has been included in subsequent annual foreign operations appropriations legislation.

<sup>8</sup> H.Rept. 111-151.

<sup>9</sup> Explanatory statement submitted by Congressman David R. Obey, Chairman of the House Committee on Appropriations, “as if it were a joint explanatory statement of a committee of conference,” February 23, 2009. A report was submitted by USAID and the State Department in early November 2009.

<sup>10</sup> H.Rept. 111-366.



## Selected Cases and Context

Widespread sexual violence has been reported as a feature of several active conflicts in Africa. Most prominent in scale are the conflicts in eastern DRC and the Darfur region of Sudan. In DRC, which will be discussed in the “Case Study: Democratic Republic of Congo (DRC)” section below, armed groups have committed sexual atrocities on a massive scale during recurrent internal conflicts over the past two decades.

In Darfur, rape has reportedly been perpetrated by government and government-allied forces since 2003 amid fighting between Sudanese security forces and allied pro-government militias known as *janjaweed*, rebel groups, and other irregular forces. United Nations officials, advocacy groups, news reports, and witness accounts allege that sexual violence was systematically employed in Darfur during the height of the conflict (2003-2006) as a weapon of war and ethnic cleansing, part of a government counterinsurgency strategy that has orchestrated mass violence against civilians. Similar allegations were made against the Sudanese government in the context of the North-South civil war, which officially ended in January 2005.<sup>11</sup> Between July 2008 and June 2010, the African Union-United Nations Hybrid Operation in Darfur (UNAMID) recorded 166 incidents of sexual violence directly related to clashes between the government and armed groups, or to inter-communal fighting and banditry. While few perpetrators have been traced, 73% of suspects were described as members of non-state armed groups; another 16% were identified as belonging to the Sudanese Armed Forces and police; and other survivors reported rapes by elements of Chadian armed opposition groups.<sup>12</sup> According to advocacy groups, assistance for rape survivors in Darfur was “largely eliminated” in March 2009, when Sudan expelled 13 international relief organizations operating in the region in response to the International Criminal Court arrest warrant for Sudan’s president.<sup>13</sup>

Other active conflict zones with reportedly significant levels of sexual violence include areas of the Central African Republic (CAR), Chad, eastern Ethiopia, southern Nigeria, and Somalia:<sup>14</sup>

- CAR has seen a proliferation of anti-government rebel movements—some of which exercise territorial control in the north and northeast—as well as community defense militias and organized criminal gangs. Sexual violence has reportedly been committed by the security forces—especially the army, presidential guard, and police—and non-state armed groups, as well as Chadian troops stationed within CAR and other factions. According to the U.N. Office for

<sup>11</sup> Reuters, “UN Says Rape is Systematic Weapon of War in Darfur,” June 21, 2005; HRW, *Five Years On: No Justice for Sexual Violence in Darfur*, April 2008; State Department, *2009 Human Rights Report: Sudan*; Physicians for Human Rights, *Nowhere to Turn: Failure to Protect, Support, and Assure Justice for Darfuri Women*, May 2009; United Nations, *Report of the Panel of Experts ... Concerning the Sudan*, October 29, 2009, S/2009/562. For further background, see CRS Report RL33574, *Sudan: The Crisis in Darfur and Status of the North-South Peace Agreement*, by Ted Dagne.

<sup>12</sup> *Report of the Secretary-General on the implementation of Security Council resolutions 1820 (2008) and 1888 (2009)*, November 24, 2010, U.N. document A/65/592–S/2010/604.

<sup>13</sup> Physicians for Human Rights, “Rights Groups Urge Clinton to Address Treatment of Rape Survivors in Sudan Policy,” November 20, 2009. See CRS Report RL34665, *International Criminal Court Cases in Africa: Status and Policy Issues*, by Alexis Arieff et al.

<sup>14</sup> For further background, see the following CRS reports: CRS Report RS22798, *Instability and Humanitarian Conditions in Chad*, by Lauren Ploch; CRS Report RL33964, *Nigeria*, by Lauren Ploch; CRS Report RL33911, *Somalia: Current Conditions and Prospects for a Lasting Peace*, by Ted Dagne; and CRS Report RL33701, *Uganda: Current Conditions and the Crisis in North Uganda*, by Ted Dagne.

- the Coordination of Humanitarian Affairs, over 15% of women and girls in CAR's violence-ridden north have been victims of sexual violence.<sup>15</sup>
- In Chad, multiple rebel groups based largely in the east are challenging the government's rule. Chadian security forces—particularly the army, police, and gendarmerie—have been accused of perpetrating sexual violence, along with ethnic militias, bandits, and armed groups connected to the spillover of conflict from neighboring Darfur. Rape and other forms of sexual violence are reportedly pervasive in and around Darfuri refugee camps in eastern Chad.<sup>16</sup> According to United Nations figures, there has been an increase in the number of reports of sexual and gender-based violence among refugees in Chad, from 295 in 2006 to 860 in 2009.<sup>17</sup>
  - In Ethiopia, according to human rights groups, systematic rape has been a feature of the Ethiopian government's counterinsurgency campaign since 2007 against the Ogaden National Liberation Front (ONLF), a largely ethnic Somali rebel group operating in the east. Ethiopian security forces have allegedly frequently raped women detained on accusations of aiding the ONLF.<sup>18</sup>
  - In Nigeria, state security forces deployed to the oil-producing Niger Delta region have reportedly used rape to intimidate the local population and retaliate for attacks on oil installations by militant groups. There have also been occasional reports of rape by militant groups.<sup>19</sup>
  - In Somalia, forces allied with the Transitional Federal Government (TFG) and clan militias have been accused by human rights groups of perpetrating sexual violence against civilian residents and displaced populations. During Ethiopia's occupation of south-central Somalia between mid-2006 and January 2009, Ethiopian troops were also accused of sexual assault.<sup>20</sup>
  - In northeast DRC, southeast CAR, and southern Sudan, sexual violence has been carried out not only by domestic armed groups, but also by members of the Lord's Resistance Army (LRA), an insurgent group that originated in northern Uganda over 20 years ago. LRA fighters have reportedly raped and mutilated civilians and abducted boys and girls for sexual slavery.<sup>21</sup>

<sup>15</sup> U.N. News, "Thousands Fall Victim to Sexual Violence in Central African Republic—UN," February 22, 2008; State Department, *2009 Human Rights Report: Central African Republic*; Human Rights Watch (HRW), *State of Anarchy: Rebellion and Abuses Against Civilians*, September 2007.

<sup>16</sup> State Department, *2009 Human Rights Report: Chad*; Amnesty International (AI), *'No Place for Us Here': Violence Against Refugee Women in Eastern Chad*, September 2009.

<sup>17</sup> U.N. document A/65/592-S/2010/604, op. cit.

<sup>18</sup> HRW, *Collective Punishment: War Crimes and Crimes Against Humanity in the Ogaden Area of Ethiopia's Somali Region*, June 2008; State Department, *2009 Human Rights Report: Ethiopia*.

<sup>19</sup> AI, *Rape—The Silent Weapon*, November 28, 2006; Emily Lenning and Sara Brightman, "Oil, Rape and State Crime in Nigeria," *Critical Criminology*, 2009.

<sup>20</sup> AI, *Routinely Targeted: Attacks on Civilians in Somalia*, May 2008; HRW, *'So Much to Fear': War Crimes and the Devastation of Somalia*, December 2008; State Department: *2009 Human Rights Report: Somalia*; IRIN, "Somalia: Instead of a Safe Haven, Fear and Rape in Galkayo," September 23, 2009.

<sup>21</sup> See, e.g., HRW, *The Christmas Massacres: LRA attacks on Civilians in Northern Congo*, February 2009; IRIN, "Central African Republic: The LRA - Not Finished Yet," October 1, 2009; HRW, *Trail of Death: LRA Atrocities in Northeastern Congo*, March 2010; Evelyn Matsamura Kiapi, "Fresh Concerns About Women in Captivity," Inter-Press Service, April 20, 2010.



## Context

Sexual violence has long been described as the “collateral damage” of fighting, and its prevalence in Africa is often viewed as a by-product of internal conflicts involving irregular forces, which frequently result in disproportionate civilian casualties.<sup>22</sup> However, sexual violence is also often deployed strategically by combatant groups. Sexual violence in conflict settings may be employed as a “benefit” for victorious troops and commanders; a means of initiation and social bonding between combatants; a punishment meted out to civilians associated with opposing groups; a means of humiliating male members of an opposing community; a method of destroying communities and cultures associated with opponents; and a means of ethnic cleansing by impregnating women or forcing their displacement.<sup>23</sup> In such cases, sexual violence is often portrayed as a “weapon” or “tool of war.”

The incidence of sexual violence nevertheless varies significantly between conflicts and groups. In many conflicts, sexual assault is employed by multiple combatant organizations and for different purposes; motivations may vary between units, individuals, and settings within a larger war.<sup>24</sup> In Sierra Leone’s 1992-2002 civil war, for example, in which the majority of conflict-affected women and girls were reportedly subjected to rape, a study found that combatants inflicted sexual violence on civilian populations both amid the anarchy of fighting and as a tool of political intimidation.<sup>25</sup>

## Opportunistic Violence

In conflict settings, sexual violence often occurs amid—and reinforces—a general breakdown in the rule of law, social systems, and discipline within combatant groups. Sexual violence may be more or less opportunistic and indiscriminate, as combatants experience a sense of impunity for their actions. Indeed, rape in African conflict settings has frequently been associated with combatant groups that lack an effective chain of command or disciplinary mechanisms, for example in CAR, Chad, and DRC.<sup>26</sup> Furthermore, women in conflict zones, due to their relative lack of economic resources, may be particularly vulnerable to exploitation in order to meet material needs. Situations in which sexual violence is widely perpetrated by combatant groups often see a concurrent increase in sexual assault by civilians, due to the same breakdown in social order as well as the normalization of sexual violence within conflict-affected communities.<sup>27</sup>

<sup>22</sup> E.g., Médecins Sans Frontières/Doctors Without Borders (MSF), *Shattered Lives: Immediate Medical Care Vital for Sexual Violence Victims*, March 2009 (henceforth, MSF March 2009); Jeanne Ward and Mendy Marsh/U.N. Population Fund (UNFPA), *Sexual Violence Against Women and Girls in War and Its Aftermath: Realities, Responses, and Required Resources*, Briefing Paper prepared for Symposium on Sexual Violence in Conflict and Beyond, June 21-23, 2006, Belgium. The U.N. Development Fund for Women (UNIFEM) reports that “some 70 percent of the casualties in recent conflicts have been non-combatants—most of them women and children.” UNIFEM, “Facts & Figures on VAW.”

<sup>23</sup> Michael Peel, ed., *Rape as a Method of Torture*, Medical Foundation for the Care of Victims of Torture, 2004; M. Richters, “Sexual Violence in Wartime,” in Patrick J. Bracken and Celia Petty, eds., *Rethinking the Trauma of War*, London: Save the Children Fund, 1998.

<sup>24</sup> Wood 2006; Jocelyn Kelly, *Rape in War: Motives of Militia in DRC*, U.S. Institute of Peace (USIP) Special Report 243, June 2010.

<sup>25</sup> Physicians for Human Rights, *War-Related Sexual Violence in Sierra Leone: A Population-based Assessment*, 2002.

<sup>26</sup> E.g., HRW, *Renewed Crisis in North Kivu*, October 2007; State Department, “2008 Human Rights Report: Chad”; HRW, *State of Anarchy: Rebellion and Abuses against Civilians [CAR]*, September 2007.

<sup>27</sup> *Report of the Secretary-General Pursuant to Security Council Resolution 1820 (2008)*, U.N. document S/2009/362.

Rape and other forms of sexual assault may also be encouraged by commanders in the field as a way of placating or “paying” their troops. Even without active encouragement, combatants who do not regularly receive wages may view rape—like the looting of food and other goods from local populations—as “justified” as part of their upkeep. Similar dynamics also sometimes lead to the abduction of women and children as sexual slaves, a practice in which LRA fighters have reportedly frequently engaged, for example.<sup>28</sup> Describing the high incidence of looting during Liberia’s civil war, one account noted, “to judge from the frequency with which male fighters committed rape or abducted women as concubines and servants, women were also included in the category of consumer items ripe for plunder.”<sup>29</sup>

## Sexual Violence as a Strategic Tool

In addition to opportunism, sexual violence may be “systematically employed for a variety of purposes, including intimidation, humiliation, political terror, extracting information, rewarding soldiers, and ‘ethnic cleansing.’”<sup>30</sup> Indeed, in 2008, U.N. Security Council Resolution 1820 affirmed that the widespread and/or systematic perpetration of sexual violence can constitute a war crime, a crime against humanity, or a constitutive act of genocide.<sup>31</sup> In several ongoing conflicts in Africa, notably those in DRC, Darfur, and Ethiopia’s Ogaden region, sexual violence has reportedly been used by one or more conflict parties as a tool of war.<sup>32</sup>

For example, in DRC, both the military and non-state combatants have reportedly employed sexual assault as a strategy to destroy or humiliate civilians perceived as sympathizing with their opponents. In the Ogaden, the Ethiopian military has been accused of raping women accused of supporting anti-government insurgents. Sexual violence is also sometimes carried out as “revenge” for an armed assault carried out by opposing forces; instances of this have been reported in the Niger Delta region of Nigeria as well as in the other conflicts cited.<sup>33</sup> By terrorizing or incapacitating women in rural areas, in particular, combatants may also seek to deprive communities of food security and nutrition, as women are often responsible for food gathering and cultivation. In some African conflicts, both active and recent, sexual violence such as mutilation appears to have been carried out through methods seen as culturally and historically resonant, in order to further terrify civilians and potential enemies.<sup>34</sup>

As a tool of ethnic cleansing or genocide, sexual violence may be used to spread terror among a particular targeted group, disrupt its social structures, drive the group off its land, or preclude its members from reproducing; sexual violence also sometimes precedes murder. In several African conflicts, women have been made vulnerable by being portrayed as “symbolic bearers of their

<sup>28</sup> E.g., HRW, *The Christmas Massacres: LRA attacks on Civilians in Northern Congo*, February 2009.

<sup>29</sup> Stephen Ellis, *The Mask of Anarchy: The Destruction of Liberia and the Religious Dimension of an African Civil War*, New York University Press, 1999.

<sup>30</sup> AI, *Rape as a Tool of War: A Factsheet*, August 25, 2005. For further background on this tactic, see Elisabeth Rehn and Ellen Johnson Sirleaf/UNIFEM, *Women, War, Peace: The Independent Experts’ Assessment on the Impact of Armed Conflict on Women and Women’s Role in Peace-Building*, 2002.

<sup>31</sup> U.N. document S/RES/1820 (2008), June 19, 2008.

<sup>32</sup> HRW, *Renewed Crisis in North Kivu*, October 2007; HRW, *Soldiers Who Rape, Commanders Who Condone: Sexual Violence and Military Reform in the Democratic Republic of Congo*, July 2009; Harvard Humanitarian Initiative, *Characterizing Sexual Violence in the Democratic Republic of the Congo*, August 2009; United Nations, *Report of the Panel of Experts ... Concerning the Sudan*, October 29, 2009, S/2009/562; HRW, *Collective Punishment*.

<sup>33</sup> E.g., AI, *Rape—The Silent Weapon*; Lenning and Brightman, “Oil, Rape and State Crime in Nigeria.”

<sup>34</sup> See Ellis, *The Mask of Anarchy*, op. cit.

cultural or ethnic identity, and as producers of future generations.”<sup>35</sup> Sudanese security forces and pro-government militia have repeatedly been accused of employing sexual violence as a tactic of ethnic cleansing in Darfur, eastern Chad, and previously in South Sudan.<sup>36</sup> In Rwanda, systematic rape was a feature of the 1994 genocide, fueled by long-standing propaganda efforts to paint Tutsi women as “enemies of the state”; sexual violence by pro-government and Hutu nationalist forces was later found to be “a step in the process of deconstruction of the Tutsi group” by the International Criminal Tribunal for Rwanda.<sup>37</sup> In these and other conflicts, sexual violence has been interpreted as “a step in the process of group destruction.”<sup>38</sup>

## Humanitarian and Post-Conflict Settings

While sexual violence is often most prevalent where active combat is taking place, it can also spike in and near camps for internally displaced persons (IDPs) and refugees. This may be because displaced women and girls are particularly vulnerable: they are often unaccompanied by male relatives or community members, and protection en route to or within camps may be limited. Displaced women and children are also often potential victims of human trafficking; this has reportedly been the case, for example, in Somalia.<sup>39</sup> Moreover, displaced populations, such as Darfuris in eastern Chad, often rely on women and children foraging for firewood or other fuel, which can put them at risk of assault by nearby armed groups.<sup>40</sup>

Countries transitioning from conflicts in which sexual violence was prevalent also often continue to experience high levels of sexual violence. This could be due to shifts in social norms and the weakening of rule of law during conflict, as well as the reintegration of former combatants into society.<sup>41</sup> High levels of sexual violence are reported in post-conflict settings in Burundi, Côte d’Ivoire, Liberia, and Sierra Leone, for example.<sup>42</sup> (These countries are post-conflict in a relatively recent sense, and retain elements of political instability.)

<sup>35</sup> International Committee of the Red Cross (ICRC), *Addressing the Needs of Women Affected by Armed Conflict*, 2004.

<sup>36</sup> E.g. AI, *Sudan, Darfur, Rape as a Weapon of War: Sexual violence and its consequences*, 2004; Harvard Program on Humanitarian Crises and Human Rights, *The Use of Rape as a Weapon of War in the Conflict in Darfur, Sudan*, Prepared for USAID/OTI with the assistance of Physicians for Human Rights, October 2004; see also Darfur-related cases opened by the International Criminal Court prosecutor, at <http://www.icc-cpi.int/>.

<sup>37</sup> See Llezlie L. Green, “Gender Hate Propaganda and Sexual Violence in the Rwandan Genocide: An Argument for Intersectionality in International Law,” *Columbia Human Rights Law Review*, Summer 2002; and Prosecutor V. Akayesu, Judgment, No. ICTR-96-4-T, September 1998.

<sup>38</sup> *Report of the Secretary-General Pursuant to Security Council Resolution 1820 (2008)*, U.N. document S/2009/362.

<sup>39</sup> See UNOCHA, *Human Smuggling and Human Trafficking in Somalia*, May 2, 2007.

<sup>40</sup> E.g., AI, *‘No Place For Us Here’: Violence Against Refugee Women in Eastern Chad*.

<sup>41</sup> AI, *Women in Post-Conflict Situations: A Fact Sheet*, July 20, 2005; U.N. document S/2009/362.

<sup>42</sup> See Nona Zicherman, “Addressing Sexual Violence in Post-Conflict Burundi,” *Forced Migration Review*, No. 27, January 2007; AI, “Widespread Tolerance for Sexual Violence and Rape in Burundi,” October 9, 2007; HRW, *‘My Heart is Cut’: Sexual Violence by Rebels and Pro-Government Forces in Côte d’Ivoire*, August 2007; United Nations, *Twenty-Second Progress Report of the Secretary-General on the United Nations Operation in Côte d’Ivoire*, S/2009/495, September 29, 2009; ActionAid, *UNMIL: International Engagement in Addressing Violence against Women*, March 2007; United Nations, *Nineteenth Progress Report of the Secretary-General on the United Nations Mission in Liberia*, S/2009/411, August 10, 2009; Johannes John-Langba, *HIV, Sexual Violence and Exploitation During Post-Conflict Transitions: The Case of Sierra Leone*, Social Science Research Council working paper, 2008; IRIN, “Sierra Leone: Sexual violence defies new law,” July 30, 2009.

## Sexual Violence by Security Forces in Peacetime

Sexual violence has been perpetrated by the security forces of several African states as a tool of political repression, outside the context of armed conflict. For example, in Guinea, members of the security forces reportedly sexually assaulted dozens of women during a crackdown on opposition demonstrators in late September 2009.<sup>43</sup> In Kenya, sexual violence—including rape, gang rape, and mutilation—was a feature of the violence that erupted in early 2008 following disputed presidential elections. Subsequent investigations suggest that the violence in Kenya was carried out by members of the government security forces as well as militias, humanitarian workers, and other individuals, often on the basis of perceived ethnic or political affiliation, but also opportunistically.<sup>44</sup> In Zimbabwe, forces affiliated with the government have also been accused of orchestrating sexual violence for political intimidation.<sup>45</sup>

## Impact on Victims and Communities

Survivors of sexual violence often suffer from short-term and long-term consequences with regard to their health, psychological well-being, and social integration. In addition to physical injuries, potential health consequences include sexually transmitted diseases (including HIV/AIDS), miscarriages, forced pregnancy, and traumatic fistula—debilitating tears in the tissue of the vagina, bladder, and rectum.<sup>46</sup> Access to treatment and follow-up care is particularly challenging in African conflict settings, where facilities and trained staff are often insufficient, located in places that are difficult for rural inhabitants to reach, or under threat from combatants.

The lingering health and reproductive effects of sexual assault can contribute to, and entrench, victims' social isolation. Researchers and advocates have reported extensively on family rejections of, and societal stigma against, rape victims in African conflict settings.<sup>47</sup> Survivors of sexual violence are often shunned by spouses, their families, and their communities, as are the children born to women who have been raped. Survivors often fear reprisals by the perpetrators of abuse, who are rarely prosecuted.<sup>48</sup> Individuals who attempt to report assaults may also face reprisals from law enforcement or military forces; in some countries, a woman who has been sexually assaulted can be prosecuted for adultery.<sup>49</sup> In addition, societal upheaval and impunity for perpetrators may reinforce norms in which rape and other forms of sexual abuse are tolerated.

<sup>43</sup> E.g., UNOCHA, "Guinea Victims of Security Forces Crackdown: Situation Report No. 3," October 18, 2009; HRW, "Guinea: September 28 Massacre Was Premeditated," October 27, 2009.

<sup>44</sup> E.g., Kenya Human Rights Commission, *Violating the Vote: A report of the 2007 general elections*, September 15, 2008; *Final Report from Kenya's Commission of Inquiry into Post-Election Violence* ("The Waki Commission"), October 15, 2008, esp. pp. 252-260; U.N. Population Fund (UNFPA), "Sexual Violence Threatens Women and Girls in Kenya's Post-Election Crisis," March 5, 2009.

<sup>45</sup> E.g., IRIN, "Zimbabwe: Focus on Rape as a Political Weapon," April 8, 2003; Alex Bell, "Zimbabwe: Soldiers Involved in Rape and Other Sexual Violence on Farms," SW Radio Africa (London), October 8, 2009; Aids-Free World, *Electing to Rape: Sexual Terror in Mugabe's Zimbabwe*, December 2009.

<sup>46</sup> United Nations, *In-Depth Study on All Forms of Violence Against Women: Report of the Secretary-General*, U.N. document A/61/122/Add.1, July 6, 2006, esp. pp. 47-49. See also CRS Report RS21773, *Reproductive Health Problems in the World: Obstetric Fistula: Background Information and Responses*, by Tiaji Salaam-Blyther.

<sup>47</sup> See, for example, LaShawn R. Jefferson, "In War as in Peace: Sexual Violence and Women's Status," in HRW, *World Report 2004*; MSF March 2009; and others.

<sup>48</sup> HRW, "US: Act to Prevent Rape in War," May 13, 2009.

<sup>49</sup> This is notably the case in Sudan; see e.g. Physicians for Human Rights in partnership with the Harvard Humanitarian Initiative, *Nowhere to Turn*.

Reports by humanitarian organizations suggest that male victims of sexual violence face particular challenges. While men and boys are thought to make up a minority of sexual violence victims in African conflicts, in some cases they have nonetheless been targeted for rape, sexual torture, sexual slavery, sexual humiliation, and forced incest.<sup>50</sup> Just as in cases affecting women, societal stigma and legal impediments can act as barriers to assistance and treatment; indeed, male victims may be even less likely to report sexual abuse than women.<sup>51</sup>

## Challenges in Prevention and Response

Beyond the breakdown in social and political order that may occur in any warzone, African conflicts present particular challenges to efforts to prevent and respond to sexual violence. These stem from various factors, including the capacity and political will of African governments and militaries to prosecute sexual crimes; the legal and societal status of women in many countries, which may derive in turn from widespread poverty, illiteracy, and inadequate access to education; and severe pre-existing gaps in the provision of health services. At the same time, African women are not uniquely passive victims of conflict. Women have served in combatant groups in several recent African conflicts, and are often engaged as politicians and activists.

### Access to Health Services

In many African countries, domestic health services, particularly in rural areas, are severely overstretched, under-resourced, or near-nonexistent even in the absence of disruption related to conflict. Health clinics often lack sufficient trained personnel and supplies, including materials for treating victims of sexual violence or testing for sexually transmitted diseases. The difficulty of accessing assistance—both emergency and long-term care—is further exacerbated in conflict zones, where pre-existing health structures may have been uprooted, while humanitarian organizations' ability to operate may be threatened by logistical difficulties, threats from combatant groups, and generalized insecurity. Women and girls may also hesitate to seek care for sexual violence due to stigma; health clinics may not guarantee safety or confidentiality, further reducing the likelihood that victims will seek care. Clinic workers rarely systematically collect medical evidence of rape that can be used in judicial investigations and prosecutions.<sup>52</sup> Conflict further heightens economic insecurity, making paid health care a luxury for many.<sup>53</sup>

### Law Enforcement

In conflict settings, human rights advocates argue, there is often insufficient will on the part of all parties to reduce abuses; most recent African conflicts have been marked by frequent reported violations of international humanitarian law. In addition, advocates contend that many African countries lack sufficient domestic legal frameworks for the prosecution of sexual violence.<sup>54</sup> Rape may not be codified as a crime, and victims may have difficulty accessing the justice system; instead, sexual violence is often seen as the domain of traditional or religious justice mechanisms. Some countries do not include male victims in their legal definitions of sexual violence.<sup>55</sup> In

<sup>50</sup> Wynne Russell, "Sexual Violence Against Men and Boys," *Forced Migration Review*, No. 27, January 2007.

<sup>51</sup> World Health Organization (WHO), *World Report on Violence and Health*, 2002.

<sup>52</sup> All Party Parliamentary Group on the Great Lakes Region of Africa & The Swedish Foundation for Human Rights, *Justice, Impunity, and Sexual Violence in Eastern Democratic Republic of Congo*, November 2008.

<sup>53</sup> ICRC, *Addressing the Needs of Women Affected by Armed Conflict*.

<sup>54</sup> E.g., UNIFEM, *Not a Minute More: Ending Violence Against Women*, Appendix 1, 2003.

<sup>55</sup> MSF March 2009.



several states, laws concerning sexual violence are framed so as to be unfavorable to the victim. For example, with regard to Darfur, according to Physicians for Human Rights,

Sudan's laws concerning rape effectively prevent access to justice for rape victims. The law as written defines rape as the Shari'a crime of adultery (*zina*).... If a woman who claims she was raped is unable to prove that she did not consent to intercourse, she may be charged with the crime of *zina*, which entails corporal punishment, because she has confessed to sexual penetration outside of marriage. In addition to these serious evidentiary hurdles, members of the military, security services, police, and border guards enjoy broad immunity for their actions and permission to file a legal complaint against an alleged rapist in any of these categories must be granted by the individual's superior officer. *Janjaweed* [pro-government Arab militias] are integrated into the Popular Defense Forces, which is also exempt from prosecution.<sup>56</sup>

While some African governments, under pressure from donors and local civil society groups, have recently passed new legislation specifically addressing sexual violence—such as Kenya, Liberia, and DRC in 2006, and Sierra Leone in 2007—prosecutions are rare even in countries with appropriate laws in place. In many countries, there are multiple sources of law and legal interpretation, including the formal judicial system; religious laws; and traditional justice mechanisms. Shortfalls in law enforcement and judicial capacity also represent significant hurdles. Many African law enforcement systems lack sufficient financial resources for investigations, judicial personnel with sufficient legal training, access to and knowledge of existing legislation, and expertise in handling sexual violence cases. Obtaining medical documentation of rape is challenging in many African countries, where healthcare systems are often severely overstretched, particularly in conflict-affected areas. Moreover, judicial corruption and political influence are common phenomena throughout the continent.<sup>57</sup>

## Military Justice

In addition to perceived gaps in criminal and procedural laws, in many cases the military code of justice either does not contain provisions prohibiting sexual assault, or is not strictly enforced by commanders and military leaders. Military courts, like their civilian counterparts, generally lack resources, facilities, and sufficient trained personnel, and may operate on an ad-hoc basis. Insufficient or dysfunctional military justice systems can have an impact beyond military institutions: in some countries, such as DRC, military courts have jurisdiction over various types of crimes that may be committed by civilians, including certain forms of armed assault.<sup>58</sup>

## Legal Status of Women

As in other regions, many African constitutions and statutes do not accord women equal rights under the law, which can negatively affect women's ability to inherit property, retain control of assets following divorce, or bring legal suits against men. For example, family law in DRC restricts management of property to male heads of household and prohibits married women from initiating legal actions without their husbands' authorization.<sup>59</sup> In many cases, women's inferior

<sup>56</sup> Physicians for Human Rights in partnership with the Harvard Humanitarian Initiative, *Nowhere to Turn: Failure to Protect, Support, and Assure Justice for Darfuri Women*, May 2009, Appendix E.

<sup>57</sup> See, e.g., Freedom House "Freedom in the World" database of political and civil liberties, specifically "Rule of Law" subscore, available at <http://www.freedomhouse.org/template.cfm?page=1>.

<sup>58</sup> CRS interviews with experts on the DRC legal system, October-November 2009.

<sup>59</sup> African Association for the Defense of Human Rights/World Organization Against Torture, *Violence Against Women in the Democratic Republic of Congo (DRC): Alternative report prepared for the Committee on the Elimination of*



legal status reflects wider phenomena of societal discrimination. While many African countries have ratified international human rights treaties, African domestic courts often do not take these agreements into consideration in their rulings.<sup>60</sup>

## International Mechanisms

The international community has sought to address sexual violence in African conflicts through a variety of mechanisms. Donor countries frequently provide financial and logistical assistance for sexual violence programs, both on a bilateral basis and through multilateral humanitarian organizations. The issue has also been taken up at various times by the U.N. Security Council, both in sessions focusing on the issue of women, peace, and security, and in connection with specific African countries on the Council's agenda. U.N. agencies—such as UNIFEM, the U.N. High Commissioner for Refugees (UNHCR), and the U.N. High Commissioner for Human Rights (UNHCHR)—regularly report on sexual violence; they also oversee and implement a wide variety of efforts on a global, national, or local level to address the issue.<sup>61</sup> Other international actors and inter-governmental entities engaged in the issue include NGOs, the World Health Organization, the International Organization for Migration, the World Bank, and the European Union. In addition, international courts and tribunals have been used to try combatants accused of perpetrating sexual violence in some African conflicts.

## Selected U.N. Activities

The U.N. Security Council has adopted at least three resolutions focused uniquely on sexual violence in conflict.<sup>62</sup> Most recently, Security Council Resolution 1888, adopted on September 30, 2009, requests that the U.N. Secretary-General appoint a Special Representative on the issue and constitute a team of experts to work with governments to prevent and address it.<sup>63</sup> Resolution 1888 was adopted after Security Council Resolution 1325 (2000), which addresses the impact of war and conflict on women and highlights the need for protection of women and girls from human rights abuses; and Security Council Resolution 1820 (2008), which demands “the immediate and complete cessation by all parties to armed conflict of all acts of sexual violence against civilians with immediate effect.”<sup>64</sup> Pursuant to these resolutions, the U.N. Secretary-General compiles regular reports detailing conflict-related sexual violence in countries on the Security Council agenda and reporting on the status of the resolutions' implementation.

The Security Council has also included provisions on the protection of civilians and the promotion of human rights, including references to sexual and gender-based violence, in the mandates of various multilateral peacekeeping missions in Africa, including those in DRC (MONUSCO), Burundi (BINUB), Côte d'Ivoire (UNOCI), Darfur (UNAMID), and Liberia

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*Discrimination Against Women*, August 7-25, 2006.

<sup>60</sup> E.g., African Association for the Defence of Human Rights and World Organization Against Torture, *Violence Against Women in the Democratic Republic of Congo (DRC)*, Alternative report prepared for the Committee on the Elimination of Discrimination Against Women, August 7-25, 2006.

<sup>61</sup> E.g., United Nations, *Inventory of United Nations System Activities to Prevent and Eliminate Violence Against Women*, September 2009. See CRS Report RL34518, *United Nations System Efforts to Address Violence Against Women*, by Luisa Blanchfield.

<sup>62</sup> For further discussion, see Security Council Report, *Protection of Civilians in Armed Conflict*, October 30, 2009.

<sup>63</sup> U.N. document S/RES/1888 (2009); see, e.g., HRW, “New Post Will Focus UN Efforts on Halting Sexual Violence,” September 30, 2009.

<sup>64</sup> U.N. document S/RES/1325 (2000), October 31, 2000; and U.N. document S/RES/1820 (2008), June 19, 2008.

(UNMIL). Reports to the U.N. Security Council by the U.N. Secretary-General on African conflict situations often include a discussion of sexual and gender-based violence.

Members of the U.N. Human Rights Council support the work of the U.N. Special Rapporteur on Violence Against Women, its Causes and Consequences, who has undertaken a number of missions to African conflict settings, including DRC and Darfur; in November 2008, the Council held a special session on the situation of human rights in eastern DRC.<sup>65</sup> In addition, 46 African states are parties to the U.N. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).<sup>66</sup> The U.N. Secretary-General and Department of Peacekeeping Operations (DPKO) have also attempted to enforce standards and exert oversight to diminish the reported incidence of sexual abuse and exploitation by U.N. peacekeeping troops.<sup>67</sup>

## International Prosecutions

The recognition that sexual violence committed in wartime can be prosecuted under international law is relatively recent.<sup>68</sup> This legal interpretation has evolved along with international norms prohibiting the abuse of civilians by parties to armed conflict. Notably, the 1949 Geneva Conventions classify sexual assault as a violation of the law of war and designate combatant groups as primarily responsible for preventing abuses.<sup>69</sup> A number of individuals have faced international prosecution for sexual violence committed during African conflicts. Cases have taken place before country-specific special tribunals and before the International Criminal Court, which came into existence in 2002. International judicial forums have focused, to date, on sexual violence in connection with the Rwandan genocide (1994), the civil war in Sierra Leone (1992-2002), the 2002-2003 conflict in CAR, the LRA insurgency in central Africa (1986-present), the conflict in Darfur (2003-present), and the conflict in eastern DRC (1990s-present).

The statutes of both the International Criminal Tribunal for Rwanda (ICTR, established by the U.N. Security Council in 1994), and the Special Court for Sierra Leone (SCSL, established in 2000 by agreement between the United Nations and the government of Sierra Leone) qualify systematic and widespread sexual violence as a war crime and crime against humanity.<sup>70</sup> The

<sup>65</sup> Statements, reports, and other documents from this session are available at <http://www2.ohchr.org/english/bodies/hrcouncil/specialsession/8/index.htm>. Reports of the Special Rapporteur are available at <http://www2.ohchr.org/english/issues/women/rapporteur/visits.htm>.

<sup>66</sup> States parties to CEDAW, available at <http://www.un.org/womenwatch/daw/cedaw/states.htm>.

<sup>67</sup> See CRS Report RL33700, *United Nations Peacekeeping: Issues for Congress*, by Marjorie Ann Browne, especially “Prince Zeid Report (2005).”

<sup>68</sup> Theodor Meron, “Rape as a Crime Under International Humanitarian Law,” *American Journal of International Law*, 87, 3 (July 1993).

<sup>69</sup> The 1949 Conventions state that “women shall be especially protected against any attack on their honor, in particular against rape, enforced prostitution, or any form of indecent assault.” Convention (IV) Relative to the Protection of Civilian Persons in Time of War, Geneva, August 12, 1949. The Additional Protocols to the Geneva Conventions Relating to the Protection of Victims in International Armed Conflicts (1977) contain similar prohibitions. The Geneva Conventions and Additional Protocols do not expressly designate sexual violence as a “grave breach” of the law of armed conflict, however. Some scholars view 1992 as a turning point in which international attention to widespread sexual atrocities in the former Yugoslavia led to greater willingness to view rape as a prosecutable crime under international humanitarian and human rights law (e.g. United Nations Division for the Advancement of Women, Department of Economic and Social Affairs, *Sexual Violence and Armed Conflict: United Nations Response*, April 1998.)

<sup>70</sup> Statute of the ICTR, pursuant to U.N. Security Council Resolution 955 (1994) of November 8, 1994, Articles 3 and 4; Statute of the Special Court for Sierra Leone, established pursuant to Security Council resolution 1315 (2000) of 14 August 2000, Articles 2 and 3. The ICTR has jurisdiction over crimes of sexual violence committed between January 1, 1994 and December 31, 1994 by persons in Rwandan territory or by Rwandan citizens in the territory of neighboring

ICTR has prosecuted over 60 suspects on charges of sexual violence committed during the 1994 Rwandan genocide.<sup>71</sup> The first suspect to be prosecuted for sexual violence before the ICTR was a former mayor, Jean Paul Akayesu, who was tried in 1997 on accusations that he failed to prevent sexual violence against displaced women who had sought refuge in the commune over which he held authority, among other charges. The Akayesu prosecution, now considered to be a landmark case in international law, was amended to include sexual violence following efforts by advocacy groups to publicize the systematic perpetration of rape during the genocide.<sup>72</sup> Crimes of sexual violence have also been a component of all but one SCSL prosecution, including the cases against leaders of the Armed Forces Revolutionary Council (AFRC) junta, against the Revolutionary United Front (RUF) rebel group, and against former Liberian President Charles Taylor, who is being tried on charges linking him to crimes committed by the RUF.<sup>73</sup>

The International Criminal Court (ICC) has sought to prosecute several cases pertaining to sexual violence committed in the context of African conflicts.<sup>74</sup> The statute of the ICC codifies and asserts jurisdiction over serious crimes of sexual and gender-based violence, and the Court has also worked to establish procedures for the proper treatment of victims and witnesses in such cases.<sup>75</sup> To date, ICC prosecutions have focused on CAR, the situation of the Lord's Resistance Army, and conflicts in Darfur and eastern DRC. Individuals sought by the Prosecutor for sexual crimes (among other alleged offenses) are:

- Omar Hassan al-Bashir, the president of Sudan; and Ahmad Muhammad Harun and Ali Muhammad Ali Abd-Al-Rahman ("Ali Kushayb"), respectively a former Sudanese minister of state for the interior and an alleged leader of the *janjaweed* militia, for alleged crimes in Darfur;
- Joseph Kony and four other commanders of the LRA, for alleged crimes in northern Uganda;
- Jean-Pierre Bemba Gombo, a former Congolese rebel leader, vice president, and senator, for alleged crimes in CAR;
- Germain Katanga and Mathieu Ngudjolo, both Congolese militia leaders, for alleged crimes in Ituri district, eastern DRC; and
- Callixte Mbarushimana, a Rwandan national and alleged leader in exile of a militia operating in eastern DRC.

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states. The SCSL is mandated to try those who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996.

<sup>71</sup> Some have been accused of personally committing sexual violence; others, of encouraging or allowing the perpetration of sexual violence by individuals under their command. Gaëlle Breton-Le Goff, "Analysis of Trends in Sexual Violence Prosecutions in Indictments by the International Criminal Tribunal for Rwanda (ICTR) From November 1995 to November 2002," A Study of the McGill Doctoral Affiliates Working Group on International Justice, Rwanda Section, On Behalf of the NGO Coalition for Women's Human Rights in Conflict Situations, November 28, 2002.

<sup>72</sup> The Prosecutor Vs. Jean-Paul Akayesu, Case No. ICTR-96-4-T, Decision of 2 September 1998.

<sup>73</sup> Indictments available on the website of the SCSL, <http://www.sc-sl.org>.

<sup>74</sup> See CRS Report RL34665, *International Criminal Court Cases in Africa: Status and Policy Issues*, by Alexis Arieff et al..

<sup>75</sup> "Elements of Crimes" of the International Criminal Court, adopted by the Assembly of States Parties and entered into force on September 9, 2002, available at <http://www.icc-cpi.int/>.

## U.S. Policy

The Obama Administration has sought to emphasize international women's issues as a foreign policy focus.<sup>76</sup> State Department officials have repeatedly referred to sexual violence as a “weapon of war” and an issue that requires U.S. attention.<sup>77</sup> Secretary of State Hillary Clinton and Melanne Verveer, the Obama Administration's Ambassador-at-Large for Global Women's Issues, have spearheaded the Administration's public efforts through multiple statements, official travel, writings, and actions at the United Nations. On September 30, 2009, Clinton chaired a U.N. Security Council session on women, peace, and security in armed conflict; the session resulted in the unanimous passage of Security Council Resolution 1888, which pertains to sexual violence in conflict situations. President Obama stated that the resolution reinforced the importance his Administration places on issues of violence against women and children.<sup>78</sup> In October 2010, the Administration announced its decision to develop a “National Action Plan” on the implementation and promotion of U.N. Security Council Resolution 1325 (2000), which addresses the impact of war and conflict on women and highlights the need for protection of women and girls from human rights abuses.

## Agency and Department Roles

USAID and the Department of State (DOS) are the primary U.S. government entities engaged in programs responding to international sexual and gender-based violence. Within each, functional and regional bureaus contribute to such programs, as do Embassy personnel and field staff. At DOS, these include the Bureau of African Affairs; the Bureau of Democracy, Human Rights, and Labor (DRL); the Bureau of International Narcotics and Law Enforcement Affairs (INL); the Bureau of Political-Military Affairs (PM); the Bureau of Population, Refugees, and Migration (PRM); the Office of the U.S. Global AIDS Coordinator; and the Office of Global Women's Issues (GWI). At USAID, these include the Africa Bureau; the Bureau of Global Health; the Bureau of Economic Growth, Agriculture, and Trade (EGAT); and the Bureau of Democracy, Conflict, and Humanitarian Assistance (DCHA). Other departments that support programs include the Department of Defense (DOD) and Department of Justice (DOJ). However, most U.S. entities do not consistently disaggregate efforts to address sexual violence in conflict settings from broader violence against women, women's empowerment, refugee protection, and security assistance efforts. This can make total funding and programming difficult to track.<sup>79</sup>

<sup>76</sup> In March 2009, the Obama Administration established the Office of Global Women's Issues (GWI), which consolidated the Office of the Senior Advisor to the Secretary for Women's Empowerment and the Office of International Women's Issues, both of which reported to the Undersecretary for Democracy and Global Affairs. GWI is led by an Ambassador-at-Large, Melanne Verveer, who reports directly to the Secretary of State.

<sup>77</sup> E.g., State Department news briefing by Ambassador-at-Large for Global Women's Issues Melanne Verveer and Ambassador-at-Large for War Crimes Issues Stephen Rapp, October 2, 2009.

<sup>78</sup> Rachel Vogelstein/The White House, “Stopping Conflict-Related Sexual Violence Against Women and Children,” October 2, 2009.

<sup>79</sup> A report submitted to Congress in November 2009 in line with a directive contained in the Omnibus Appropriations Act for 2009 (P.L. 111-8) includes narrative description of the role of various DOS and USAID entities in addressing sexual and gender-based violence worldwide and in various settings. However, the report does not contain detailed information on individual programs or cost (budgeting or outlays). DOS and USAID, *Report on Sexual and Gender-Based Violence Programs and the Integration of Sexual and Gender-Based Violence Issues into Foreign Policy, Judicial and Military Training Programs*, submitted to the Committees on Appropriations on November 9, 2009 (henceforth, DOS and USAID Report 2009).

## Types of Programs

The United States maintains a number of programs aimed at addressing and preventing sexual violence in African conflict zones. Programs take many different approaches, ranging from the direct provision of medical assistance to efforts to address long-term issues seen as causal factors. In addition to bilateral assistance programs, the United States provides significant support to multilateral organizations engaged in providing care to victims, ensuring the protection of refugees and displaced persons, and managing aid focused on women and vulnerable populations. This report's case study on DRC and overview of U.S. programs there provide examples of the range and context of U.S. assistance in this area. As the issue of sexual violence in conflict zones is often rolled into larger humanitarian, security, governance, and economic development programs, precise figures on the overall level of U.S. assistance related to this issue are not available from the various participant agencies.

Programs aimed at responding to sexual violence often include the provision of medical and psychological treatment or other forms of assistance to survivors or the funding or training of health service providers and counselors. Care may include the treatment of sexually transmitted diseases and medical conditions such as fistula. For example, USAID has provided funding to the Panzi Hospital in South Kivu and Heal Africa Hospital in North Kivu, which specialize in treating sexual violence victims in conflict-affected areas of eastern DRC. USAID has also supported women's health teams in rural Liberia, and PRM has funded programs to provide medical and psychological assistance to sexual violence survivors in Ethiopia, Liberia, and Sudan.

Another area of assistance lies in protecting refugees and displaced populations that may be particularly vulnerable to sexual violence. Toward this end, PRM supports the work of the U.N. High Commissioner for Refugees (UNHCR) and the International Committee of the Red Cross (ICRC) to protect women and other vulnerable community-members displaced by conflict. In addition, DCHA has funded an International Rescue Committee program promoting a coordinated strategy aimed at protecting displaced women displaced by conflict or disasters from sexual violence by addressing their need for cooking and heating fuel. Separately, anti-trafficking programs have, in some cases, focused on African conflict settings. At least one program, overseen by PRM, aims to assist the victims of trafficking amid conflict in an African country; the program provides protection, return, and reintegration assistance to Congolese IDPs who were trafficked by Ugandan military forces stationed within DRC during the 1998-2003 civil war.

Content on sexual and gender-based violence is also a component of U.S. foreign police, judicial, and military training programs, in accordance with congressional directives contained in annual appropriations legislation.<sup>80</sup> These programs include International Military Education and Training (IMET), INL police training programs, and the Africa Contingency Operations Training and Assistance Program (ACOTA), which, as part of the U.S. Global Peace Operations Initiative (GPOI), aims to enhance the capabilities of African militaries to serve as peacekeepers.<sup>81</sup> In a few countries, notably DRC, training aimed at preventing sexual and gender-based violence has been a core component of U.S.-supported security sector reform efforts.

<sup>80</sup> Most recently, the Consolidated Appropriations Act, 2010 (P.L. 111-117, Division F, Title VII, Section 7063 (b)) provides that "Programs and activities funded under titles III and IV of this Act that provide training for foreign police, judicial, and military officials shall address, where appropriate, gender-based violence."

<sup>81</sup> ACOTA provides Peace Support Operations training, including light infantry and small unit tactics, and focuses on training African troops who can in turn train other African units. For further background, see CRS Report RL34003, *Africa Command: U.S. Strategic Interests and the Role of the U.S. Military in Africa*, by Lauren Ploch.

In addition to providing assistance and training, some U.S. programs work to address underlying issues that may contribute to high rates of sexual violence. In many cases, this entails providing policy support to governments that wish to shore up legal protections against sexual violence. Some programs focus on longer-term economic empowerment as a means to address women's socio-economic status (for example, through enhanced educational opportunities for girls) and change attitudes toward sexual violence.<sup>82</sup> Programs have included training for enhanced media capacity to report on the issue and capacity-building programs for legal professionals and advocates.<sup>83</sup> For example, DRL has funded a project in Chad to enhance citizens' access to locally developed and broadcasted news and information on gender-based violence and women's rights issues in remote communities. USAID's economic growth activities have supported an initiative aimed at increasing awareness of gender-based violence response and prevention programs among conflict-affected populations in Liberia, Rwanda, southern Sudan, and Uganda through the use of community media. The Women's Justice and Empowerment Initiative (WJEI), a \$55 million State Department program aimed at improving legal rights for victims of gender-based violence, initially focused on Benin, Kenya, South Africa, and Zambia, none of which are affected by armed conflict; the program was expanded in 2010 to include DRC.<sup>84</sup>

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<sup>82</sup> CRS interview with USAID officials, October 2009.

<sup>83</sup> The Women's Justice and Empowerment Initiative (WJEI), a program initiated in 2005, attempts to raise awareness of gender-based violence, strengthen the capacity of the legal system to prosecute perpetrators, and assist victims in four African countries (Benin, Kenya, South Africa, and Zambia), but none that are directly affected by conflict.

<sup>84</sup> The Obama Administration requested additional FY2011 ESF assistance funds in order to extend WJEI activities in DRC. The program was initiated in 2005 with \$55 million in designated funding; current funding is expected to be expended in FY2011.



## Case Study: Democratic Republic of Congo (DRC)

**Figure 1. Map of the Democratic Republic of Congo**

Provinces and Ituri District



**Source:** CRS.

The following case study is included in this report due to the relative gravity of sexual abuse perpetrated in DRC, and due to recent high levels of attention from U.S. policy-makers, including within the Obama Administration and Congress. Active U.S. programs aimed at addressing sexual violence in DRC constitute a large share, in funding and number, of U.S. policy efforts focusing on sexual violence in African conflicts.

## The Dynamics of Conflict-Related Sexual Violence in DRC

Rape and other forms of sexual violence have been a feature of conflict in DRC going back to at least the civil war of the mid-1990s and subsequent civil and regional conflict of 1998-2003.<sup>85</sup> U.N. officials have characterized sexual violence in DRC as the worst in the world, a “weapon of terror,” and a war crime.<sup>86</sup> The brutality of sexual violence is reportedly extreme: a study by the Harvard Humanitarian Initiative noted that sexual violence in DRC “has features rarely seen in peace-time, or indeed most wartime, settings including: forced incest; gang rape; rape in public; rape with foreign objects, and urogenital mutilation.”<sup>87</sup> Sexual violence survivors also often witness the torture and murder of their children and spouses. The psycho-social and health consequences, particularly for the rural populations of eastern DRC, have been devastating: pregnancy, infertility, sexually transmitted disease, and genital mutilation are prevalent among survivors, as are post-traumatic psychological impacts. Rape is highly stigmatized and frequently results in spousal abandonment, inability to marry, expulsion from the community, and homelessness.<sup>88</sup>

Though precise statistics are lacking, UNICEF estimated in 2008 that “hundreds of thousands” of women and girls had been raped in DRC since the mid-1990s.<sup>89</sup> According to the U.N. Population Fund, over 17,500 cases of sexual and gender-based violence were reported in 2009, up from 15,500 in 2008; these figures are still thought to reflect under-reporting.<sup>90</sup> Sexual violence has been reported in multiple regions, but it is particularly prevalent in the conflict-ridden east, and especially in North and South Kivu, where there is a long-running pattern of armed groups and state security forces committing brutal human rights abuses against civilian populations. Doctors without Borders reports that sexual violence in the Kivu provinces is “a problem of catastrophic proportions.”<sup>91</sup>

The Congolese military, known as the FARDC (*Forces Armées de la République Démocratique du Congo*), has largely failed to protect civilians in conflict zones, and indeed most reports state that Congolese troops are among the largest perpetrators of violence against civilians, including sexual violence, in conflict areas.<sup>92</sup> Some FARDC abuses have reportedly been carried out by

<sup>85</sup> See HRW, *The War Within the War: Sexual Violence Against Women and Girls in Eastern Congo*, June 2002, which reported on widespread sexual violence committed in the Kivus region by all parties to DRC’s 1998-2003 civil war.

<sup>86</sup> Stephanie McCrummen, “Prevalence of Rape in E. Congo Described as Worst in World,” *The Washington Post*, September 9, 2007; Stephen Lewis, “Congo-Kinshasa: End Sexual Violence in Eastern Region,” *AllAfrica.com*, September 13, 2007; U.N. News, “Sexual Violence Against Women in DR Congo Amounts to War Crime: UN Expert,” October 26, 2007.

<sup>87</sup> Harvard Humanitarian Initiative, *Characterizing Sexual Violence in the Democratic Republic of the Congo*, August 2009: 4.

<sup>88</sup> Harvard Humanitarian Initiative and Oxfam International, “*Now, the World is Without Me*”: *An investigation of sexual violence in eastern Democratic Republic of Congo*, April 2010.

<sup>89</sup> UNICEF, “As DR Congo Crisis Persists, UN Classifies Rape as Weapon of War,” June 24, 2008. The U.N. Secretary-General reported in July 2009 that UNICEF had documented over 200,000 rapes since 1996 (U.N. document S/2009/362).

<sup>90</sup> UNFPA statistics provided in UNHCR briefing to CRS, May 2010.

<sup>91</sup> MSF, *Shattered Lives: Immediate medical care vital for sexual violence victims*, March 2009. See also ICG, *Congo: Four Priorities For Sustainable Peace In Ituri*, May 13, 2008; United Nations, *Report of the Secretary-General on Children and Armed Conflict in the Democratic Republic of the Congo*, November 10, 2008; United Nations, *Report of the Special Rapporteur on violence against women, its causes and consequences*, February 28, 2008, A/HRC/7/6/Add.4.

<sup>92</sup> E.g., HRW, “DR Congo: Brutal Rapes by Rebels and Army,” April 8, 2009; HRW, *Soldiers Who Rape, Commanders Who Condone: Sexual Violence and Military Reform in the Democratic Republic of Congo*, July 2009; U.N. document

former combatants of the CNDP (*Congrès National pour la Défense du Peuple*) rebel group, who were integrated into the military in 2009 but have reportedly maintained unit cohesion and command structure.<sup>93</sup> The Congolese police and intelligence agents have also been accused of sexual assault.<sup>94</sup> Other groups implicated in widespread sexual violence include the Lord's Resistance Army (LRA), which originated in northern Uganda but is now based partly in northeast DRC, and the FDLR (*Forces Démocratiques pour la Libération du Rwanda*), a group based in eastern DRC and partly led by former participants in Rwanda's 1994 genocide.<sup>95</sup>

Sexual assault is sometimes reportedly carried out as part of a coordinated armed attack in which the intent appears to be "to terrorize communities into accepting their control or to punish them for real or supposed links to opposing forces."<sup>96</sup> Individual fighters and groups of combatants have also reportedly frequently engaged in opportunistic rape of women and girls, at times concurrently with other apparent motives: Human Rights Watch reported in 2007 that in North Kivu, "in some cases soldiers raped women as part of the punishment meted out to communities believed hostile to their control... In other cases, soldiers raped women in the course of a theft or looting property."<sup>97</sup> While women and girls are the primary targets of sexual violence, men and boys have also been victims.<sup>98</sup> Displaced persons have also been frequently targeted.<sup>99</sup>

The prevalence of sexual violence has been attributed to the eroded status of women, weak state authority, a deeply flawed justice system, and a breakdown in community protection mechanisms. Sexual violence by the military has also been linked to waves of integration of rebel organizations into the military through successive peace accords, with little accompanying attention to military discipline or the chain of command.<sup>100</sup> Military troops are poorly paid, and troops deployed in conflict areas are not provided adequate food or supplies, which is thought to encourage looting and other abuses. While most sexual crimes are carried out by members of armed groups in conflict zones, incidents of rape by civilians are also reportedly increasing, as rape may have "become trivialized and has been increasingly perpetrated in zones of relative stability."<sup>101</sup>

### Walikale Mass Rapes (2010)

Between July 30 and August 2, 2010, an estimated 303 women were raped in a rebel attack on a group of villages near the mining town of Walikale, in North Kivu province, eastern DRC. The attackers were reportedly members of the Democratic Forces for the Liberation of Rwanda (FDLR, after the group's French acronym) and the Mai Mai-Cheka, a faction of a loose, uncoordinated network of militia fighters who broadly identify with "indigenous" Congolese

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A/65/592-S/2010/604, op. cit.

<sup>93</sup> HRW, *Soldiers Who Rape, Commanders Who Condone*; CRS interviews.

<sup>94</sup> E.g., Department of State, "2009 Human Rights Reports: Democratic Republic of Congo."

<sup>95</sup> HRW, *The Christmas Massacres*; International Crisis Group (ICG), *Congo: Une Stratégie Globale pour Désarmer les FDLR*, July 2009.

<sup>96</sup> HRW, *Renewed Crisis in North Kivu*, October 2007.

<sup>97</sup> Ibid.

<sup>98</sup> E.g., Médecins Sans Frontières (MSF), *Ituri: Civilians Still the First Victims*, October 2007.

<sup>99</sup> E.g., United Nations, *Twenty-sixth report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo*, July 3, 2008.

<sup>100</sup> HRW, *Renewed Crisis in North Kivu*; HRW, *Soldiers Who Rape, Commanders Who Condone*; CRS interviews.

<sup>101</sup> Fédération Internationale des Droits de l'Homme (FIDH), *Democratic Republic of Congo (DRC): Breaking The Cycle Of Impunity*, March 26, 2008. See also United Nations, *Report of the Secretary-General on Children and Armed Conflict in the Democratic Republic of the Congo*, November 10, 2008.

ethnic groups. U.N. and humanitarian officials said the attack was unusual for its size and for the number of gang rapes: one humanitarian worker who visited the area said that most women “were raped by two to six men at a time.”<sup>102</sup> The U.N. special representative on the prevention of sexual violence in conflict stated that the victims were deliberately assaulted in front of family members and others as part of a systematic attempt “to put fear into society.”<sup>103</sup>

The incident drew widespread criticism of international stabilization efforts in Congo because it occurred less than 20 miles from a forward operating base for U.N. peacekeepers, who reportedly failed to protect villagers from the attack and said they only became aware of the incident a week after the rapes took place. A U.N. official who carried out an investigation into the attack concluded that at least 257 more women had been raped elsewhere in North and South Kivu provinces during the same approximate period.<sup>104</sup> In October, a leader in the Mai Mai-Cheka was arrested in connection with the Walikale rapes during a joint operation in the area by the Congolese military and U.N. peacekeepers. The Congolese parliament also condemned the mass rapes and called for reform of the security and justice sectors.<sup>105</sup>

### Fizi Court Convictions (February 2011)

On February 21, nine soldiers, including their commanding officer, were convicted of mass rape and looting following a two-week trial before a donor-supported “mobile court.” The rapes allegedly occurred on New Year’s Day. The commanding officer, Lt. Col. Kibibi Mutware, is one of the highest-ranked officers to stand trial for sexual violence-related offenses. Although the trial was seen as a significant demonstration of Congolese will and capacity to prosecute senior military officers for rape, it was strongly assisted by the U.N. peacekeeping mission in DRC (MONUSCO) and non-government organizations, including the American Bar Association (which receives U.S. funding for its DRC sexual violence prosecutions program) and the Open Society Initiative.<sup>106</sup> The State Department hailed the verdict as a “significant milestone” and applauded the Congolese government for “taking swift and appropriate legal action” against military personnel who had perpetrated sexual violence in a conflict setting.<sup>107</sup>

### DRC Government Responses

Observers report that impunity is the norm for perpetrators of sexual crimes, and indeed most grave human rights abuses, in DRC.<sup>108</sup> Still, the Congolese government has taken several steps to combat sexual violence in recent years. In 2006, the government passed new laws aimed at protecting victims and facilitating the prosecution of sexual crimes.<sup>109</sup> In 2009, the Congolese government released a national gender-based violence strategy, and in mid-2009, the Congolese

<sup>102</sup> Josh Kron, “Rwandan Rebels Raped at Least 179 Women in Congo, Humanitarian Officials Say,” *The New York Times*, August 23, 2010.

<sup>103</sup> Agence France Presse (AFP), “DR Congo Militias Face War Crimes Charges Over Rape Spree,” August 31, 2010.

<sup>104</sup> Neil MacFarquhar, “U.N. Officials Say 500 Were Victims of Congo Rapes,” *The New York Times*, September 7, 2010.

<sup>105</sup> *La Prospérité*, “Le Parlement Condamne Fermement les Viols Massifs au Pays,” October 11, 2010.

<sup>106</sup> Open Society Institute, “Fizi Diary: Mobile Court Tries Landmark Rape Case,” February 17, 2011.

<sup>107</sup> State Department, “Conviction of Congolese Military Officers Accused of Mass Rapes,” February 23, 2011.

<sup>108</sup> E.g., Department of State, “2009 Human Rights Reports: Democratic Republic of Congo.”

<sup>109</sup> *Loi n° 06/018 du 20 Juillet 2006 Modifiant et Complétant le Décret du 30 Janvier 1940 Portant Code Pénal Congolais*, and *Loi n° 06/019 du 20 Juillet 2006 Modifiant et Complétant le Décret du 06 Août 1959 Portant Code de Procédure Pénale Congolais*.

military announced a “zero-tolerance” policy toward soldiers who commit rape. Government authorities have initiated several prosecutions, some of which have resulted in convictions.<sup>110</sup> According to the United Nations, the national police force (PNC) is “leading the establishment of sexual violence special units within PNC and is assisting to coordinate ... the training of those units.”<sup>111</sup> The Ministry of Justice has also reportedly adopted a road-map, developed with the support of the United Nations, which, among other efforts, establishes a standard medical certificate for victims of sexual violence.<sup>112</sup>

Reports suggest that these efforts, however, have been limited and insufficiently implemented overall. Prosecutions remain the exception, there are no provisions for victim or witness protection, and sentences are generally minimal and rarely enforced.<sup>113</sup> According to the U.N. Secretary-General, “there appears to be a lack of will to investigate and prosecute high-level military and other officials who have allegedly committed sexual violence.”<sup>114</sup>

## U.N. Peacekeeping Activities

The U.N. peacekeeping mission in DRC, MONUSCO (formerly, MONUC), which has been in DRC since 1999, had over 22,000 uniformed personnel as of October 2010, including over 19,000 troops, of which the majority are based in North and South Kivu. MONUSCO’s most recent mandate renewal, in May 2010, places the highest priority on the protection of civilians. The peacekeeping mission is also mandated to monitor human rights issues and to support the Congolese government in implementing its “zero tolerance” policy toward human rights abuses by military personnel, including by assisting military justice officials in prosecuting abuse perpetrators.<sup>115</sup> In 2009, U.N. agencies and MONUSCO released a Comprehensive Strategy in the Fight Against Sexual Violence in DRC, which has been endorsed by the Congolese government and the donor community. It is structured around four pillars: (1) combating impunity; (2) prevention and protection; (3) security sector reform; and (4) multi-sectoral response for survivors. Each pillar has a U.N. lead agency and Congolese government counterpart. The Congolese Ministry of Gender is the lead partner.<sup>116</sup>

U.N. peacekeepers have nonetheless come under criticism for allegedly failing to protect civilians. Peacekeepers have also been criticized for providing military and logistical support to Congolese military units accused of engaging in human rights abuses, including sexual violence, though a new practice of conditioning such support on respect for human rights was announced in

<sup>110</sup> HRW, “Congo-Kinshasa: Stopping Rape As a Weapon of War,” September 18, 2009. In December 2009, the U.N. Security Council approved a resolution that “urges the Government of the Democratic Republic of the Congo to ensure the full implementation of its ‘zero-tolerance policy’ with respect to discipline and human rights violations, including sexual and gender-based violence, committed by elements of the Armed Forces of the Democratic Republic of the Congo (FARDC)” [S/RES/1906(2009)].

<sup>111</sup> *Report of the Secretary-General Pursuant to Security Council Resolution 1820 (2008)*, U.N. document S/2009/362.

<sup>112</sup> United Nations, *Fourth Special Report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo*, November 21, 2008.

<sup>113</sup> MONUC, *Briefing Materials*, Public Information Division, August 2009.

<sup>114</sup> *Report of the Secretary-General Pursuant to Security Council Resolution 1820 (2008)*, U.N. document S/2009/362.

<sup>115</sup> U.N. document S/RES/1925 (2010). The mandate also authorizes MONUSCO to assist in the disarmament and demobilization of foreign-origin and Congolese armed groups and to support Congolese security sector reform, among other provisions.

<sup>116</sup> Office of the Senior Sexual Violence Advisor and Coordinator, MONUC, *Comprehensive Strategy on Combating Sexual Violence in DRC*, March 18, 2009; CRS briefing by UNHCR officials, May 2010.



late 2009.<sup>117</sup> Some have argued that peacekeepers should cease support for all FARDC operations in light of ongoing FARDC abuses; others have called for U.N. operations that would directly interdict FARDC attacks on civilians.<sup>118</sup> In November 2009, the U.N. mission announced it would withdraw support for FARDC units accused of deliberately killing 62 civilians in one widely publicized incident.<sup>119</sup> At the same time, while acknowledging “moral and practical dilemmas,” U.N. peacekeeping officials maintain that withdrawal of all U.N. support for the FARDC would lead to even greater civilian suffering.<sup>120</sup>

## Abuses by U.N. Peacekeepers

Peacekeepers serving under the U.N. peacekeeping mission in Congo have been periodically accused of sexual exploitation and abuse of women and children.<sup>121</sup> Such behavior is a violation of the U.N. code of conduct, and troop-contributing countries hold the responsibility to prosecute their nationals for alleged abuse while serving under U.N. peacekeeping missions.<sup>122</sup> Despite various U.N. efforts, including the declaration in 2005 of a “zero tolerance” policy toward sexual exploitation and abuse, investigations by outside groups and U.N. internal oversight entities indicate that abuses by peacekeeping personnel are ongoing.<sup>123</sup> Human Rights Watch contended in 2008 that “serious allegations of illegal behavior by UN peacekeepers in Congo have been ignored, minimized, or shelved, and that there is rarely accountability for the crimes that are acknowledged.”<sup>124</sup> MONUSCO has sought to prevent such abuses through awareness training for personnel, field assessment visits, monitoring, and investigations.<sup>125</sup>

## U.S. Policy Responses

The State Department characterizes DRC as a “priority focus” for U.S. efforts to prevent and respond to violence against women and girls.<sup>126</sup> In August 2009, Secretary of State Clinton traveled to the city of Goma in eastern DRC, where she met with rape survivors, medical providers, health care activists, and displaced Congolese. In a speech at a hospital that treats rape victims, Clinton stated, “The United States condemns these attacks and all those who commit them and abet them. And we say to the world that those who attack civilian populations using

<sup>117</sup> MONUC’s 2009 mandate renewal stated that “support of MONUC to FARDC-led military operations against foreign and Congolese armed groups is strictly conditioned on FARDC’s compliance with international humanitarian, human rights and refugee law.” U.N. document S/RES/1906 (2009).

<sup>118</sup> E.g., HRW, “Eastern DR Congo: Surge in Army Atrocities, UN Peacekeeping Force Knowingly Supports Abusive Military Operations,” November 2, 2009; CRS interviews with DRC experts, October-November 2009.

<sup>119</sup> Stephanie McCrummen, “Congolese Army Units Lose U.N. Aid,” *The Washington Post*, November 3, 2009.

<sup>120</sup> Reuters, “U.N. Congo Head Says Must Back Army, Despite Abuse,” November 11, 2009.

<sup>121</sup> E.g., U.N. News, “Annan Vows to End Sex Abuse Committed by UN Mission Staff in DR of Congo,” November 19, 2004; Marc Lacey, “In Congo War, Even Peacekeepers Add to Horror,” *The New York Times*, December 18, 2004; UN News, “Peacekeepers’ Sexual Abuse of Local Girls Continuing in DR of Congo, UN Finds,” January 7, 2005.

<sup>122</sup> For further discussion, see CRS Report RL33700, *United Nations Peacekeeping: Issues for Congress*, by Marjorie Ann Browne.

<sup>123</sup> Louis Charbonneau, “Peacekeepers May Have Committed Sex Abuse in Congo – UN,” *Reuters*, August 12, 2008; MONUC, “MONUC Demands Urgent Investigations on Allegations of Bad Conduct,” December 24, 2008. According to the U.N. Office of Internal Oversight Services (OIOS), 35 allegations of sexual exploitation and abuse were reported against MONUC/MONUSCO between January 2010 and February 2011.

<sup>124</sup> HRW, “UN: Tackle Wrongdoing by Peacekeepers,” April 30, 2008.

<sup>125</sup> MONUC, *Briefing Materials*, Public Information Division, August 2009.

<sup>126</sup> Department of State, “Combating Violence,” April 2010.



systematic rape are guilty of crimes against humanity.”<sup>127</sup> The Secretary also announced \$17 million in “new funding” to assist women in areas including North and South Kivu.<sup>128</sup> The funds comprised an existing \$7 million contract for the International Rescue Committee along with \$10 million in funding designated in the Supplemental Appropriations Act, 2009 [P.L. 111-32], passed two months earlier, in June 2009.<sup>129</sup>

Senior Administration officials continue to draw attention to the problem of sexual violence in Congo. In August 2010, following mass rapes near Walikale (see “Walikale Mass Rapes (2010),” above), Secretary of State Clinton stated that the United States “will do everything we can to work with the U.N. and the DRC government to hold the perpetrators of these acts accountable, and to create a safe environment for women, girls, and all civilians living in eastern Congo.”<sup>130</sup> U.S. Ambassador to the United Nations Susan Rice also condemned the attacks and noted that they occurred despite U.N. peacekeeping patrols in the affected area; Rice said the United States would press the U.N. peacekeeping mission to enhance communication with rural communities.<sup>131</sup> In October 2010, following reports of rapes along the Angola-DRC border during Angolan operations to expel Congolese migrants, State Department spokesman P. J. Crowley called for an investigation, noting that “the United States has repeatedly condemned the epidemic of sexual violence in conflict zones around the world and continues to speak out on this issue.”<sup>132</sup>

In response to a congressional requirement contained in the FY2010 Consolidated Appropriations Act (P.L. 111-117; see “Congressional Activities,” above), the Obama Administration submitted a document outlining a “U.S. Strategy to Address Sexual Violence and Gender-Based Violence in the Democratic Republic of the Congo” to Congressional committees of jurisdiction in early 2011. While acknowledging that “conditions in the DRC present a difficult environment in which to effect change,” the strategy defines four objectives:

- reduce impunity for perpetrators of sexual and gender-based violence (SGBV);
- increase prevention of, and protection against, SGBV for vulnerable populations;
- improve the capacity of the Congolese security forces to address SGBV; and
- increase access to quality services for survivors.

The strategy document stated that future executive branch budget requests would be developed with these goals “in mind,” and that the U.S. Embassy in Kinshasa had created a working group on sexual and gender-based violence to coordinate interagency efforts to implement the strategy and monitor progress toward its objectives.

<sup>127</sup> Kelly Daniel, “United States Pledges \$17 Million to Aid Rape Survivors in DRC,” August 12, 2009.

<sup>128</sup> Department of State, “United States Pledges \$17 Million to Aid Rape Survivors in DRC – Clinton condemns rape attacks in the Democratic Republic of Congo,” August 12, 2009.

<sup>129</sup> H.Rept. 111-151 on P.L. 111-32 provided \$10 million in Economic Support Fund (ESF) funding “for programs and activities to assist victims of gender-based violence in the DRC.”

<sup>130</sup> State Department, “Allegation of Mass Rape in the Democratic Republic of the Congo,” August 25, 2010.

<sup>131</sup> U.S. Mission to the United Nations, “U.S. Ambassador to the U.N. Rice Delivers Remarks at U.N. Security Council Stakeout on the Mass Rapes and Attacks in the Democratic Republic of the Congo,” August 26, 2010, via *Congressional Quarterly*.

<sup>132</sup> “State Department Holds Regular News Briefing,” October 28, 2010, via *Congressional Quarterly*.

## Related Assistance Programs

In a snapshot conducted in mid-2010, the Administration identified over \$170 million budgeted for active programs administered by the State Department, USAID, and the Defense Department that were aimed in part or in whole at addressing sexual and gender-based violence in DRC.<sup>133</sup> These programs included broad projects aimed at encouraging good governance and the rule of law, as well as the direct provision of health assistance and counseling; the protection of refugees and displaced persons; the provision of policy support at the national level; police and military training efforts; the strengthening of military justice systems; and contributions to certain multilateral organizations. It is difficult, in connection with some of the programs identified by the Administration, to disaggregate funding for sexual and gender-based violence programs from broader program objectives. The Administration indicated that it would allocate an additional \$12.8 million in FY2010 funds for programs related to sexual and gender-based violence.

According to USAID, its programs in DRC have provided care and treatment services for over 100,000 sexual and gender-based violence survivors since 2002. In May 2010, the President's Emergency Plan for AIDS Relief program (PEPFAR) committed an additional \$30 million to support DRC and two other African countries (Mozambique and Tanzania) in scaling up gender-based violence prevention and response efforts.<sup>134</sup> The Defense Department and its U.S. Africa Command (AFRICOM) have also emphasized training in military justice, human rights law, and the law of armed conflict since mid-2009. According to AFRICOM Commander Gen. William Ward, one of the three U.S. objectives for a February-September 2010 program to train and equip a model FARDC light infantry battalion was to "reduce sexual and gender-based violence by the military."<sup>135</sup>

## The FY2012 Request

In its FY2012 Congressional Budget Request for Foreign Operations, the Administration has indicated that \$59.9 million in Economic Support Funds (ESF) requested for DRC will be used partly to support "the prevention and treatment of sexual and gender-based violence," among other goals. It also requested \$19 million in Peacekeeping Operations (PKO) funds toward efforts to reform DRC's military; such efforts have, in the past, been partly directed toward the prevention of sexual violence by Congolese troops. Similarly, \$6 million requested in International Narcotics Control and Law Enforcement (INCLE) funds and \$500 thousand in International Military Education and Training (IMET) for DRC may be partly allocated for police reform and military training (respectively), which may include training in the prevention of sexual violence.

## Outlook and Issues for Congress

Many observers have praised the Obama Administration for its attention to the issue of sexual violence in African conflicts. Secretary of State Clinton's visit to Goma, for example, was lauded

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<sup>133</sup> Department of State, "Ongoing U.S. Government Programs to Address Sexual and Gender-Based Violence in the Democratic Republic of the Congo," July 2010.

<sup>134</sup> Department of State, "PEPFAR Launches Increased Commitment to Scale up Gender-Based Violence Approaches," May 5, 2010.

<sup>135</sup> AFRICOM, "TRANSCRIPT: AFRICOM's Ward Testifies Before Senate Armed Services Committee," March 9, 2010. The train and equip program is implemented by contractors and financed with approximately \$35 million in State Department Peacekeeping Operations (PKO) funding; in addition, AFRICOM has 28 personnel on the ground to oversee the training.

by human rights advocates and humanitarian organizations. At the same time, a number of concerns have been raised regarding the coordination, scale, and effectiveness of U.S. programs. Some have also questioned whether post-conflict (or “peaceful”) settings, where sexual violence levels may be equally high, receive sufficient attention and funding.

An overriding concern, as with many foreign assistance issues, is whether partner nations share U.S. priorities over the scale of the problem and the choice of programs and policies to counter it. Perceived gaps in political will, including a refusal among some governments to acknowledge rule-of-law shortcomings or recognize that state security forces play a role in the perpetration of sexual violence, may negatively impact the success of bilateral assistance programs.

## Strategy and Emphasis

In some ways, debates over program design and approach highlight this issue’s multi-faceted nature, which includes diverse elements related to justice sector effectiveness, military professionalism, human security, and women’s socio-economic status. The emphasis of U.S. efforts to combat sexual violence in African conflicts has also evolved over time. In many instances, U.S. programs have centered around the provision of health assistance to survivors, and support to multilateral entities that provide protection to vulnerable displaced and refugee populations. However, in recent years, some policy-makers have come to see sexual violence in conflict as a security issue, and one that requires a security-oriented response; this has led to a growing interest in incorporating sexual violence issues into foreign military and police training, and on promoting the roles of women in peace processes. At the same time, the policy response to sexual violence may, in some instances, focus on the justice sector, or on long-term economic development and the socio-political empowerment of women. Some argue that donor interventions should focus attention on policy and legal advising for partner government actors.

In turn, these policy evolutions have sparked debates over whether to focus assistance efforts on the direct provision of care, or on long-term support to domestic institutions, the direct results of which may be difficult to ascertain. Some maintain that sexual violence in conflict zones cannot be disaggregated from wider security trends, and that policy efforts to prevent violence should therefore be primarily aimed at providing security on the ground for all civilians.<sup>136</sup> Others argue that policies should emphasize long-range attempts to address shortfalls in the health sector and the perceived societal underpinnings of sexual violence.<sup>137</sup> Some further maintain that policies are, at times, designed with little input from local communities, and emphasize solutions that may not be feasible in impoverished, conflict-affected regions of Africa.

## Training Programs

Concerns have also been raised with regard to training programs, including those aimed at enhancing military professionalism and building capacity to prosecute sexual violence. In some cases, for example, insufficient infrastructure and expertise on the part of partner agencies and individual recipients of training may inhibit their ability to implement new practices. Moreover, training programs for foreign military and law enforcement personnel often last only a few days

<sup>136</sup> For example, Africa advocate John Prendergast testified before the Senate Foreign Relations Committee in May 2009 that “measures to deal with rape as a weapon of war in isolation will fail and fail miserably. If we truly want to end this scourge we must move from managing conflict symptoms to ending the conflicts themselves.”

<sup>137</sup> Speaking of DRC, the U.N. Special Rapporteur on violence against women argued in 2008 that “if the sexual violence associated with war is addressed in isolation, gender-based discrimination and violence endured by women in ‘peace’ will be grossly neglected.” United Nations, *Report of the Special Rapporteur on violence against women, its causes and consequences*, Yakin Ertürk, February 28, 2008, U.N. document A/HRC/7/6/Add.4: 2.

or weeks, and may not address underlying problems such as massive gaps in capacity and expertise, insufficient salaries and resources, or an inept or non-existent chain of command. Many conflict-torn African countries lack sufficient numbers of courtrooms and trained personnel, including judges, prosecutors, and investigators, to staff them; many also lack prisons or barracks in which to intern those convicted of sexual crimes. Enhanced police professionalism may not be effective in the face of a weak or corrupt judiciary. It is difficult to evaluate the impact of training programs; many agencies rely on the metric of how many individuals received training, rather than attempting to measure the holistic results or benefit of such training.

## The Role of U.N. Peacekeeping Missions

The mass rapes in mid-2010 in the Walikale region of DRC caused many analysts and policy-makers to reiterate concerns over the role of U.N. peacekeeping missions in preventing sexual violence. This debate is situated within a larger inter-agency and international discussion over civilian protection in the context of multilateral peacekeeping operations, which increasingly take place in intra-state conflicts marked by high levels of human rights atrocities.<sup>138</sup> While many advocates have urged troop contributors and commanders to integrate strategies for civilian protection into their activities, some argue that peacekeeping mandates and doctrine often do not provide sufficient guidance and prioritization.<sup>139</sup> Moreover, advocates argue that peacekeeping missions often lack sufficient trained personnel, access to intelligence data and analysis, and “enabling assets” such as road and air transport vehicles, to effectively ensure civilian protection. Critics contend that as multi-national entities with competing policy interests, peacekeeping missions are ill-equipped to shoulder responsibility for the protection of civilians in war-torn, impoverished states.

In DRC, this debate has been further influenced by the fact that the U.N. peacekeeping mission—MONUSCO—is mandated to support and assist Congolese military troops in counter-insurgency operations. The goal of this mandate is ostensibly to build capacity among Congolese troops while also directly carrying out missions to forcibly disarm and demobilize foreign-origin armed groups operating in eastern Congo, as called for under Congo’s peace process. However, U.N. support for the military is controversial because Congolese troops are reportedly among the top perpetrators of abuses, including sexual assault. As noted above (see “U.N. Peacekeeping Activities”), some have argued that peacekeepers should cease support for all military operations in light of ongoing abuses, while others have called for U.N. operations that would directly interdict military attacks on civilians; U.N. peacekeeping officials maintain that withdrawal of all U.N. support for Congolese forces would lead to even greater civilian suffering.<sup>140</sup>

## Measurement and Evaluation

Few reliable statistics exist on sexual violence in most African conflicts, and data collection is not a component of most U.S. programs. Furthermore, little is known about the effectiveness of individual programs in reducing the scale of violence. Given necessarily limited resources, it is a matter of debate whether sexual violence programs should budget funding for data collection or

<sup>138</sup> See, e.g., Refugees International, *Greater Expectations: UN Peacekeeping & Civilian Protection*, July 2009; Paul D. Williams, *Enhancing Civilian Protection in Peace Operations: Insights from Africa*, Africa Center for Strategic Studies, September 2010.

<sup>139</sup> In the case of the U.N. peacekeeping mission in DRC, MONUSCO, the mission’s mandate from the U.N. Security Council places the highest priority on the protection of civilians. However, even in this instance, advocates contend that peacekeepers have not been given adequate doctrinal guidance or resources to carry out this aspect of their mandate.

<sup>140</sup> Reuters, “U.N. Congo Head Says Must Back Army, Despite Abuse,” November 11, 2009.

monitoring and evaluation efforts. Some argue that better information is needed on the prevalence and context of sexual assault in order to inform policy decisions, and that better evaluation would allow for the establishment of best practices. Others counter that budgeting funds for data collection can reduce the amount of money available for programs themselves.

## Coordination of Resources

Many critics allege that U.S. policy responses to address sexual and gender-based violence lack strategic focus and coordination. Some attribute this to the fact that there is no lead agency or foreign operations budgetary line item for sexual and gender-based violence programs; such programs are often funded through accounts such as Economic Support Funds (ESF), Peacekeeping Operations (PKO), International Narcotics Control and Law Enforcement (INCLE), Section 1207 authority, earmarked funds, and other sources, which may inhibit long-term planning. The U.S. response to sexual violence in African conflicts tends to be fragmented among many different agencies and implementers, often with reportedly little collaboration, cooperation, or coordination in design or implementation. The health sector is also often treated separately from the security sector, in lieu of an integrated approach.<sup>141</sup>

Some humanitarian advocates maintain that U.S. resources would be most effective if channeled into multilateral efforts, such as those led by U.N. agencies and programs, which may have broad expertise in Africa and the ability to coordinate assistance from various sources. Opponents emphasize that U.N. agencies may not act with the same efficiency as other potential implementers, and that U.N. activities may not always align with U.S. priorities.

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<sup>141</sup> See U.S. Institute of Peace, *The Health Sector and Gender-Based Violence in a Time of War*, April 28, 2010.